

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0815.01 Duane Gall

SENATE BILL 08-146

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SENATE SPONSORSHIP

Sandoval,

HOUSE SPONSORSHIP

Liston,

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Senate Committees  
State, Veterans & Military Affairs

House Committees

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A BILL FOR AN ACT

101 CONCERNING LIMITATIONS ON THE USE OF AUTOMATED DIALING  
102 SYSTEMS TO MAKE TELEPHONE CALLS.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Prohibits the use of an automated dialing system to make a telephone solicitation, except when:

- ! The recipient has previously consented or has a preexisting business or personal relationship with the caller; or
- ! The prerecorded message is initiated by a live operator who, at the beginning of the call, discloses the identity of the caller; the purpose of the message; the type of goods or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

services being offered; the fact that the message intends to solicit payment or commitment of funds, if applicable; and the fact that the recipient of the call may opt out of receiving future calls.

Exempts automated calls from a school or university to students, parents, or employees. Exempts "reverse 911" emergency calls. Punishes violations as a class 2 petty offense, with a fine of up to \$2,500 per violation.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 18-9-311, Colorado Revised Statutes, is amended  
3 to read:

4 **18-9-311. Use of prerecorded or synthesized voice messages -**  
5 **definitions.** (1) AS USED IN THIS SECTION:

6 (a) "AUTOMATED DIALING SYSTEM" MEANS A DEVICE THAT  
7 SELECTS AND DIALS TELEPHONE NUMBERS AND THAT, WORKING ALONE OR  
8 IN CONJUNCTION WITH OTHER EQUIPMENT, DISSEMINATES A PRERECORDED  
9 OR SYNTHESIZED VOICE MESSAGE TO THE TELEPHONE NUMBER CALLED.

10 (b) "CALLER" MEANS A PERSON, CORPORATION, FIRM,  
11 PARTNERSHIP, ASSOCIATION, OR LEGAL OR COMMERCIAL ENTITY THAT  
12 CONTACTS OR ATTEMPTS TO CONTACT A SUBSCRIBER IN THIS STATE BY  
13 USING A TELEPHONE OR A TELEPHONE LINE.

14 (c) "MESSAGE" MEANS ANY TELEPHONE CALL, REGARDLESS OF ITS  
15 CONTENT.

16 (d) "SUBSCRIBER" MEANS:

17 (I) A PERSON WHO PURCHASES TELEPHONE SERVICE FROM A  
18 PROVIDER OF TELEPHONE SERVICE; AND

19 (II) ANY PERSON LIVING OR RESIDING WITH A PERSON DESCRIBED  
20 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (d).

21 (†) (2) No person shall ~~utilize~~ USE an automated dialing system

1 with a prerecorded message for the purpose of soliciting another person  
2 to purchase goods or services, whether such solicitation occurs or is  
3 intended to occur during the prerecorded message or during some further  
4 communication initiated by or resulting from the prerecorded message,  
5 unless there is an existing business relationship between such persons and  
6 the person being called then consents to hear the prerecorded message.

7 UNLESS:

8 (a) THE SUBSCRIBER HAS KNOWINGLY OR VOLUNTARILY  
9 REQUESTED, CONSENTED TO, PERMITTED, OR AUTHORIZED RECEIPT OF THE  
10 MESSAGE; OR

11 (b) THE MESSAGE IS IMMEDIATELY PRECEDED BY A LIVE OPERATOR  
12 WHO OBTAINS THE SUBSCRIBER'S CONSENT BEFORE THE MESSAGE IS  
13 DELIVERED.

14 (3) THIS SECTION SHALL NOT APPLY TO:

15 (a) MESSAGES FROM SCHOOL DISTRICTS, COLLEGES, OR  
16 UNIVERSITIES TO STUDENTS, PARENTS, OR EMPLOYEES;

17 (b) MESSAGES FROM A LAW ENFORCEMENT OR EMERGENCY  
18 RESPONSE AGENCY NOTIFYING A PERSON OF AN EMERGENCY; OR

19 (c) MESSAGES TO SUBSCRIBERS WITH WHOM THE CALLER HAS AN  
20 ESTABLISHED BUSINESS OR PERSONAL RELATIONSHIP.

21 (4) IN CASES WHERE THE MESSAGE IS IMMEDIATELY PRECEDED BY  
22 A LIVE OPERATOR, THE OPERATOR SHALL, AT THE BEGINNING OF THE  
23 MESSAGE, DISCLOSE THE FOLLOWING:

24 (a) THE NAME OF THE BUSINESS, FIRM, ORGANIZATION,  
25 ASSOCIATION, PARTNERSHIP, OR ENTITY ON BEHALF OF WHICH THE  
26 MESSAGE IS BEING MADE;

27 (b) THE PURPOSE OF THE MESSAGE;

1 (c) THE TYPE OF GOODS OR SERVICES THE MESSAGE IS PROMOTING;

2 (d) IF APPLICABLE, THE FACT THAT THE MESSAGE INTENDS TO  
3 SOLICIT PAYMENT OR COMMITMENT OF FUNDS; AND

4 (e) THE OPPORTUNITY FOR THE SUBSCRIBER TO BE EXCLUDED  
5 FROM FUTURE MESSAGES FROM THAT BUSINESS, FIRM, ORGANIZATION,  
6 ASSOCIATION, PARTNERSHIP, OR ENTITY.

7 ~~(2)~~ (5) Any person who violates this section commits a ~~class 1~~  
8 ~~petty offense~~ CLASS 2 PETTY OFFENSE, AND, UPON CONVICTION THEREOF,  
9 SHALL BE PUNISHED BY A FINE OF UP TO TWO THOUSAND FIVE HUNDRED  
10 DOLLARS PER VIOLATION.

11 **SECTION 2.** 16-13-303 (1.5), Colorado Revised Statutes, is  
12 amended to read:

13 **16-13-303. Class 1 public nuisance.** (1.5) All equipment,  
14 mechanical systems, or machinery, or parts thereof, shall be deemed to be  
15 a class 1 public nuisance at the location of the ~~automatic~~ AUTOMATED  
16 dialing system when used for soliciting with an ~~automatic~~ AUTOMATED  
17 dialing system containing a prerecorded message in violation of section  
18 18-9-311, ~~(1)~~, C.R.S.

19 **SECTION 3.** 16-13-304 (1) (b.5), Colorado Revised Statutes, is  
20 amended to read:

21 **16-13-304. Class 2 public nuisance.** (1) The following are  
22 deemed to be a class 2 public nuisance:

23 (b.5) Any public or private place or premises used for soliciting  
24 by means of a prerecorded message in violation of section 18-9-311, ~~(1)~~,  
25 C.R.S.; or

26 **SECTION 4. Effective date - applicability.** (1) This act shall  
27 take effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly that is  
2 allowed for submitting a referendum petition pursuant to article V,  
3 section 1 (3) of the state constitution, (August 6, 2008, if adjournment  
4 sine die is on May 7, 2008); except that, if a referendum petition is filed  
5 against this act or an item, section, or part of this act within such period,  
6 then the act, item, section, or part, if approved by the people, shall take  
7 effect on the date of the official declaration of the vote thereon by  
8 proclamation of the governor.

9 (2) The provisions of this act shall apply to telephone solicitations  
10 made on or after the applicable effective date of this act.